

FED MAIL SECTION

Dockets

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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

DA 95 -193

In the Matter of

Bell Atlantic

F.C.C. Tariff No. 1,

Transmittal No. 704

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CC Docket No. 94 - 139

**MEMORANDUM OPINION AND ORDER
SUSPENDING RATES**

Adopted: February 9, 1995; Released: February 9, 1995

By the Acting Chief, Tariff Division, Common Carrier Bureau:

I. INTRODUCTION

1. On October 13, 1994, Bell Atlantic filed its Transmittal No. 704 to revise price cap indices and rates to recover amounts associated with its implementation of Statement of Financial Accounting Standard 112, "Standards for Employers' Accounting for Postemployment Benefits" (SFAS-112). Bell Atlantic proposes to recover these amounts over the remaining months of the 1994-95 tariff period. MCI Telecommunications Corporation (MCI) filed a petition to suspend and investigate Bell Atlantic's transmittal on October 29, 1994. On November 7, 1994, Bell Atlantic filed its reply to MCI's petition.

2. SFAS-112 requires that accounting for expenses for severance pay and other benefits for laid-off (or otherwise separated) workers be made on an accrual, rather than a cash or "pay as you go," basis. SFAS-112 is the forecasted liability applicable to the current work force. Beginning in 1993, SFAS-112 requires companies to take a one-time operating expense adjustment for expected future payments associated with anticipated corporate layoffs ("restructuring" or "downsizing" plans). These payments include salary continuation, supplemental unemployment benefits, severance benefits, disability related benefits (including workers' compensation), job training and counseling, and continuation of benefits such as health care and life insurance coverage.

3. Since 1985, the Commission has followed a policy of conforming regulatory accounting for carriers to generally accepted accounting practices (GAAP), including new standards ordered by the Financial Accounting Standards Board (FASB), unless adoption of the principle or practice conflicts with the Commission's regulatory objectives. See

Section 32.16 of the Commission's rules, 47 C.F.R. § 32.16. The Commission has required carriers to adopt SFAS-112 for Part 32 accounting.¹ In its review of our *OPEB Order*,² the United States Court of Appeals for District of Columbia Circuit held that under our rules, GAAP changes, once mandated by the Commission, are treated the same as changes made by the Commission to the Uniform System of Accounts (USOA), which are entitled to automatic exogenous treatment.³ We conclude, consistent with the court's holding in *Southwestern Bell Telephone Company v. F.C.C.*, the SFAS-112 costs may also be eligible for exogenous treatment.

II. POSITIONS OF THE PARTIES

4. Bell Atlantic states that in SFAS-112, the FASB modified GAAP to require the recognition of the cost of postemployment benefits on an accrual basis.⁴ Bell Atlantic proposes a one-time charge representing the "catch-up" costs for workers compensation, long term disability, and the cost of disability pension benefits.⁵

5. Bell Atlantic states that it did not include separations pay plan benefit costs in the initial adoption of SFAS-112. Because of its history of using other incentives to achieve force reduction objections, Bell Atlantic argues, the cost of separation pay plan benefits could not be estimated at the time of adoption of SFAS-112. Bell Atlantic continues that, since the incremental costs resulting from SFAS-112 were not included in its base period costs or price cap indices in the 1994 annual price cap tariff filing, Bell Atlantic proposes to treat these additional costs, less "pay-as-you-go" amounts, as exogenous. In this filing, Bell Atlantic is requesting exogenous treatment for both the SFAS-112 Transition Benefit Obligation (TBO), as well as ongoing SFAS-112 costs.⁶

¹ *RAO Letter 22*, 8 FCC Rcd 4111 (Acc. & Aud. Div., Com. Car. Bur. 1993).

² Treatment of Local Exchange Carrier Tariffs Implementing Statement of Financial Accounting Standards, "Employers Accounting for Postretirement Benefits Other Than Pensions," CC Docket No. 92-101, 8 FCC Rcd 1024 (1993)(*OPEB Order*).

³ *Southwestern Bell Telephone Company v. FCC*, 28 F.3d 165, 169-70 (D. C. Cir. 1994).

⁴ Bell Atlantic Transmittal No. 704, Description & Justification (D&J), filed October 13, 1994 at 1-2, citing, SFAS No. 112 Employers' Accounting for Postemployment Benefits, Financial Accounting Standards Board (November 1992) at para. 1.

⁵ *Id.* at 1-5.

⁶ The TBO is the one-time catch-up of postemployment benefit costs up to the time of SFAS-112 adoption.

6. Bell Atlantic's analysis concludes that the adoption of SFAS-112 has little or no impact on the GNP-PI; however, the analysis does suggest that ongoing SFAS-112 costs may have a *de minimis* impact on GNP-PI. Therefore, Bell Atlantic states that it includes an adjustment to its SFAS-112 costs to reflect a nominal GNP-PI impact.⁷

7. Bell Atlantic claims \$50.7 million of SFAS-112 costs as exogenous. Bell Atlantic proposes to increase rates by approximately 1.96 percent. At the basket level, common line would increase 1.82 percent or \$23.0 million; switched traffic sensitive rates would increase 2.04 percent or \$9.7 million; trunking rates would increase approximately 2.05 percent or \$16.9 million; and interexchange rates would increase 2.52 percent or \$1.06 million.⁸

8. MCI argues that Bell Atlantic has failed to provide sufficient cost support information as required by Section 61.49(a) of the Commission's rules. *See* 47 C.F.R. § 61.49(a). Specifically, MCI asserts that Bell Atlantic has neglected to make projections about the disability, workers compensation, severance and other requirements of its employees. Further, MCI claims that Bell Atlantic has made no estimate of a discount rate, period of time or other financial factors in determining its present value of its SFAS-112 claim.⁹

9. For example, MCI continues, Bell Atlantic determined its allocation of SFAS-112 costs between nonregulated and regulated activities by using the ratio of Corporation Operations expenses to Total Company Corporation Operations expenses; however, this allocation may not be consistent with the long-term disability, workers compensation or severance costs of employees under the subject-to-separations group.¹⁰ MCI argues that Bell Atlantic has reduced its workforce by 6,400 employees during the last several years.¹¹ MCI argues that it is possible that a higher percent of employee reductions were in the part of Bell Atlantic that is subject to separations. Further, MCI contends, it is possible that the areas of Bell Atlantic that are not subject to separations have lower cost structures because they are less regulated, or unregulated. MCI also

⁷ Bell Atlantic D&J at 1-6 - 1-7.

⁸ Bell Atlantic D&J at Section 5.

⁹ MCI Petition at 5.

¹⁰ *Id.* at 6.

¹¹ *Id.*, citing "Technology: Bell Atlantic Discloses Plans to Take Charge, reduce 5,600 Jobs," Wall Street Journal, August 16, 1994.

asserts that it is not clear that Bell Atlantic has included severance costs in its filing.¹² MCI also questions the underlying assumptions of Bell Atlantic's double counting study.¹³

10. In reply, Bell Atlantic argues that the SFAS-112 costs were already reflected in its external and regulatory financial books prior to the request for exogenous treatment.¹⁴ Bell Atlantic further asserts that it did not include separations pay plan benefit costs in its initial adoption of SFAS-112. Because the request for exogenous treatment covers the SFAS-112 costs as of the time of adoption of SFAS-112, Bell Atlantic continues, severance costs are not part of its request.

11. Bell Atlantic argues that, because the relevant exogenous costs are the net incremental costs associated with the adoption of SFAS-112, these costs are fixed at the time of adoption and are not affected by subsequent changes in employment levels. Furthermore, Bell Atlantic asserts, because the general ratio of regulated to nonregulated costs is based on a time period contemporaneous to SFAS-112 adoption, any impacts from past employee reductions would already be captured.

III. DISCUSSION

12. The calculations underlying Bell Atlantic's estimate of the SFAS-112 exogenous adjustment are complex and based on numerous assumptions. Although we have reviewed Transmittal 704, its supporting documents and the pleadings, we find that several issues remain unresolved. In general, we find the supporting information provided in Transmittal 704 insufficient to answer basic questions. For example, based on the materials provided, we are unable to verify total company SFAS-112 amounts or the methods used to allocate portions of this total amount between regulated and nonregulated operations or state and interstate functions. We further find the information insufficient with respect to employee terminations and separation benefits expenses, *inter alia*. Accordingly, we conclude that an investigation of Bell Atlantic's Transmittal 704 is warranted.

13. On November 28, 1994, we suspended AT&T Communications (AT&T) Tariff F.C.C. No. 1, Transmittal No. 7322, in which AT&T sought a PCI adjustment and

¹² MCI Petition at 6-7.

¹³ *Id.* at 8.

¹⁴ Bell Atlantic Reply at 2.

rate increases based on exogenous changes due to the implementation of SFAS-112.¹⁵ We find that the issues in the instant transmittal are sufficiently similar to warrant its inclusion in the AT&T investigation.

14. Therefore, pursuant to Section 204(a) of the Communications Act¹⁶ and Section 0.291 of the Commission's rules,¹⁷ we hereby add to our investigation in CC Docket No. 94-139 Bell Atlantic's proposed tariff changes based on the PCI adjustments flowing from its implementation of SFAS-112. We suspend the effective date of the transmittal for one day, impose an accounting order, and initiate an investigation. Issues will be designated and a pleading cycle established in a subsequent order.

IV. ORDERING CLAUSES

15. Accordingly, IT IS ORDERED that, pursuant to Section 204(a) of the Communications Act of 1934, 47 U.S.C. § 204(a), and Section 0.291 of the Commission's Rules, 47 C.F.R. § 0.291, the revised rates set forth in Bell Atlantic Tariff F.C.C. No. 1, Transmittal No. 704 ARE SUSPENDED for one day from the current effective date and an investigation of those rates is instituted. Bell Atlantic SHALL FILE a supplement reflecting this suspension no later than 5 days from the release of this Order.

16. IT IS FURTHER ORDERED that, pursuant to Section 4(i) and 204(a) of the Communications Act of 1934, 47 U.S.C. §§ 154(i), 204(a), and Section 0.291 of the Commission's Rules, 47 C.F.R. § 0.291, Bell Atlantic SHALL KEEP ACCURATE ACCOUNT of all amounts received that are associated with the rates that are the subject of this investigation.

17. IT IS FURTHER ORDERED that Bell Atlantic SHALL INCLUDE A STATEMENT in all subsequent transmittals revising rates indicating whether, and to what extent, the price change is predicated upon the exogenous cost claim set forth in Transmittal No. 704.¹⁸

¹⁵ AT&T Communications, F.C.C. Tariff No. 1, Transmittal No. 7322, CC Docket No. 94-139, 9 FCC Rcd 7229 (Com. Car. Bur. 1994).


¹⁶ 47 U.S.C. § 204(a).

¹⁷ 47 C.F.R. § 0.291.

¹⁸ We anticipate that any such transmittals will be suspended for one day, included in this investigation, and made subject to an accounting order.

18. IT IS FURTHER ORDERED that the petition to suspend and investigate Bell Atlantic Transmittal No. 704, filed by MCI Telecommunications Corporation, IS GRANTED to the extent discussed above.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in cursive script, reading "Geraldine A. Matis".

Geraldine A. Matis
Acting Chief, Tariff Division
Common Carrier Bureau